Claims 1-9 and 11-20 are pending. Claims 1, 11, and 20 are amended. No new matter has been added as a result of these amendments.

Claim Rejections – 35 U.S.C. §101

Claims 1-9 are rejected under 35 U.S.C. 101 as being allegedly directed to non-statutory subject matter. The rejection noted that the previous Office Action response amended Claim 1 to satisfy many of the statutory requirements, but contended that it is still allegedly unclear which steps are performed by a computer or computer program and which can be performed by strictly mental steps. Therefore, Applicants have amended Claim 1 to claim "A computer-executable program product comprising computer executable instructions tangibly embodied on a computer readable medium that when executed by said computer perform a method comprising." Applicants note that the rejection agrees that a computer-executable program tangibly embodied on a computer readable medium, as claimed in amended Claim 1, is statutory subject matter. Therefore, Applicants respectfully request that the rejection of Claims 1-9 under 35 U.S.C. 101 be reconsidered and withdrawn.

Claim Rejections – 35 U.S.C. §103

Claims 1-3, 5-9, and 11-19 are rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Lindoerfer (US 2002/0069096), hereinafter "Lindoerfer," in view of Aram (US 2002/0072986), hereinafter "Aram," and further in view of Burnard (US 6,684,119), hereinafter "Burnard."

Claim 4 is rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Lindoerfer, in view of Aram, further in view of Burnard, and further yet in view of Kureshy (US 2002/0152268), hereinafter "Kureshy."

Applicants respectfully assert that Claims 1-9 and 11-20 are patentable over the cited combinations in view of the following.

Applicants respectfully point out that the Examiner has the burden of establishing a prima facie case of obviousness. To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim features. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MEP 2100-126. Specifically, "all words in a claim must be considered when judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d., 1382 (CCPA 1970).

Moreover, in response to the recent U.S. Supreme Court decision in *KSR Int'l Co. v. Teleflex, Inc.* (U.S. 2007), new guidelines were set forth for examining obviousness under 35 U.S.C. 103. The U.S. Supreme Court reaffirmed the *Graham* factors and, while

not totally rejecting the "teachings, suggestion, or motivation" test, the Court appears to now require higher scrutiny on the part of the U.S. Patent & Trademark Office. In accordance with the recently submitted guidelines, it is "now necessary to identify the reason" why a person of ordinary skill in the art would have combined the elements of cited references, or at least describe the pertinence of the elements set forth in the cited disclosure, in the manner presently claimed.

Applicants respectfully assert the combination of Lindoerfer, Aram, and Burnard fails to teach or suggest all the claimed elements of Claims 1, 11, and 20 in view of the following rationale.

Claim 1:

Amended Claim 1 recites:

A computer-executable program product comprising computer executable instructions tangibly embodied on a computer readable medium that when executed by said computer perform a method comprising:
    automatically detecting individual real-time usage of parts on a product line with at least one parts consumption detector, wherein the detection occurs at the time of individual part usage;
    automatically triggering by a processor a part pull request signal as a function of the detected usage by the at least one parts consumption detector;
    automatically translating the part pull request signal to a shipping order by the processor;
    transmitting the shipping order over a public data network by the processor from the manufacturer to the logistics provider at a different geographic location than the manufacturer;
    automatically generating a picking list, by the logistics provider, based on the part pull request signal and the shipping order; and
    automatically generating delivery information to the manufacturer, by the logistics provider, based on the picking list (emphasis added).

Applicants respectfully assert that the combination of Lindoerfer, Aram, and Burnard does not teach or suggest "automatically detecting individual real-time usage of parts on a product line with at least one parts consumption detector, wherein the detection occurs at the time of individual part usage," as claimed in Claim 1.

As understood by applicants, Lindoerfer discloses a secure Internet electronic commerce solution for buyers/manufacturers and respective vendors/suppliers. More particularly, various embodiments as disclosed by Lindoerfer provide tools that allow trading partners to collaboratively manage and optimize the execution of the supply chain management process. In particular, Lindoerfer teaches that one or more manufacturers send data describing material delivery requirements to a server. Suppliers then access the service machine to view and respond to the multiple manufacturer's requirements via a normalized business method with a normalized view of multiple manufacturer data and business requirements (Paragraph 0013). Data is received from manufacturers, suppliers and then normalized (converted into a standard data structure within the system). This data is then accessible and understandable by all users of the system, regardless of the data's original source (Paragraphs 0014-0019).

Lindoerfer discloses that users have access to a product and/or service usage "Trend Analysis" screen for both historical and planned events (Paragraph 0213). The "Trend Analysis" screen provides an analysis of each month within a selected time frame (Paragraph 0213). This includes a "schedule variation maximum" showing the largest quantity of a specific part that has been forecast by the manufacturer to be delivered in

each displayed time period as well as a "schedule variation minimum" for the smallest such quantity (Paragraph 0213). Applicants respectfully assert that the rejection is reading the trend analysis as disclosed by Lindoerfer on Applicants' claimed automatically detecting usage of parts, as claimed in Claim 1. Further, the rejection contends that Lindoerfer teaches a system and method by which the cumulative consumption of materials is tracked and communicated. Applicants respectfully disagree.

Applicants have amended Claim 1 to claim "automatically detecting individual real-time usage of parts on a product line with at least one parts consumption detector." Applicants respectfully assert that while Applicants recite "automatically detecting individual real-time usage of parts on a product line with at least one parts consumption detector, wherein the detection occurs at the time of individual part usage," as claimed in Claim 1, Lindoerfer instead discloses the analysis of a trend to determine a forecasted maximum or minimum quantity of parts for delivery to a particular manufacturer. The analysis of past parts usage to determine forecasted usage for upcoming periods of time to determine delivery requirements fails to teach or suggest "automatically detecting individual real-time usage of parts on a product line with at least one parts consumption detector," as claimed in Claim 1.

Applicants respectfully assert that Aram and Burnard do not remedy the deficiencies of Lindoerfer. Applicants respectfully assert that Aram and Burnard do not teach or suggest, and is not alleged by the rejection to disclose "automatically detecting

individual real-time usage of parts on a product line with at least one parts consumption detector," as claimed in Claim 1.

Therefore, Applicants respectfully assert that embodiments as recited by Claim 1 are not rendered obvious by the combination of Lindoerfer, Aram, and Burnard. Accordingly, Applicants respectfully assert that dependent Claims 2-3 and 5-9 are patentable by virtue of their dependency on an allowable base claim, as well as for their additional recited patentable features.

Claim 4:

For at least the same or similar reasons as stated above, Claim 1 is patentable over the combination of Lindoerfer, Aram, and Burnard. Applicants respectfully assert that Kureshy does not cure the deficiencies of Lindoerfer, Aram, and Burnard. Therefore, Applicants respectfully assert that dependent Claim 4 is patentable by virtue of its dependency on allowable base claim 1, as well as for its additional recited patentable features.

Claim 11:

Independent Claim 11 recites features similar to that of independent Claim 1 and is therefore patentable for at least the same or similar reasons as recited above. Accordingly, Applicants respectfully assert that dependent Claims 12-19 are patentable by virtue of their dependency on an allowable base claim, as well as for their additional recited patentable features.

<u>Claim 20</u>:

Independent Claim 20 recites features similar to that of independent Claims 1 and is therefore patentable for at least the same or similar reasons as recited above.

For the above reasons, Applicants request reconsideration and withdrawal of the rejections under 35 U.S.C. §103.

<div align="center">CONCLUSION</div>

In light of the above listed remarks, reconsideration of rejected Claims is requested. Based on the arguments presented above, it is respectfully submitted that Claims 1-9 and 11-20 overcome the rejections of record and, therefore, allowance of Claims 1-9 and 11-20 is earnestly solicited.

Please charge any additional fees that may be required to maintain pendency of the present application, or apply any credits to our PTO deposit account number: 50-4160.

Respectfully submitted,

MURABITO, HAO & BARNES LLP

Dated: _4/20/10_

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